

CONSOLIDATION DEPARTMENT

The 31st May, 1977

No. 1428-ARS-II-(1)-77/13587.—(In exercise of the powers conferred by sub-section (1) of Section 41 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948, the President of India is pleased to direct that the Powers exercisable by the State Government under section 42 of the said Act shall also be exercisable by Shri Jagat Ram, Director, Consolidation of Holdings, in respect of the State of Haryana, with effect from the date of his taking over the charge of the post of Director, Consolidation of Holdings, Haryana.

S. D. BHAMBRI,

Secretary to Government, Haryana,
Revenue and Consolidation Department.

LABOUR DEPARTMENT

The 24th May, 1977

No. 4545-4Lab-77/12638.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s United Oil Mill Machinery and Spares Private Limited, Mathura Road, Ballabgarh :—

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 153 of 1974

between

SHRI AMAR SINGH SHARMA, WORKMAN AND THE MANAGEMENT OF M/S
UNITED OIL MILL MACHINERY AND SPARES PRIVATE LIMITED, MATHURA
ROAD, BALLABGARH

*Present :—*Shri Amar Singh, for the workman.

Shri S. L. Gupta, for the management.

AWARD

By order No. 1D/FD/74/35580, dated 17th October, 1974, the Governor of Haryana, referred the following dispute between the management of M/s United Oil Mill Machinery and Spares Private Limited, Mathura Road, Ballabgarh and its workman Shri Amar Singh, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :

“Whether the termination of services of Shri Amar Singh Sharma, was justified and in order ?
If not, to what relief is he entitled ?

On receipt of the reference, notices were issued to the parties. Both the parties appeared and put in their pleadings. On the pleadings of the parties, the following issues were framed by my learned predecessor on 7th March, 1975.

(1) Whether the demand, the subject matter of the present reference was first raised on the management and rejected by it before taking up the matter for conciliation ?
If not, with what effect ? (on workman).

(2) Whether the termination of services of Shri Amar Singh Sharma was justified and in order ? If not, to what relief is he entitled ?

The parties adduced their evidence, closed their case and argued. On three dates for hearing arguments the representative of the workman did not appear and the workman concerned appeared. He prayed for adjournment and adjournments were granted. On 11th March, 1977 the workman

himself stated that his representative was not attending his case and he himself shall argue his case, he then addressed his arguments. Arguments of both sides were heard. I have gone through the domestic enquiry held by the management into the charges which has been levelled against him. Ex. M-2 is the charge sheet which was received by the workman concerned. Ex. M-3 is a letter to the Manager of the management in which the workman concerned has admitted that a little quarrel had taken place between him and some other person and assured the management that such incident shall not occur again. Ex. M-4 is a letter of the workman concerned praying for apology. Ex. M-5 is the reply of the charge sheet by the workman. Ex. M-1 is a letter by the management to the workman concerned informing him of the domestic enquiry. Ex. M-6 is the proceedings of the domestic enquiry. I have gone through the proceedings of the enquiry. Almost at every proper place, the workman concerned has signed the enquiry proceedings. He was present throughout the enquiry proceedings. He was allowed cross examination. Ex. M-7 is the report of the Enquiry Officer. The enquiry officer found the workman concerned guilty of the charges levelled against him. Thereafter the management served a show cause notice upon the workman concerned that they wanted to dismiss him on the basis of the report of the enquiry officer and asked him to show cause as to why he should not be dismissed. The workman replied this letter but his explanation being found unsatisfactory, the management dismissed the workman from their service.

As far as the domestic enquiry is concerned, I do not find any fault with this enquiry. The enquiry is based on principle of natural justice. Defence opportunities were given to the workman concerned. The enquiry is not vitiated on any ground. And on the basis of the report of the enquiry officer, the management terminated the services of the workman concerned. I, therefore, now give my findings issues-wise.

Issue No. 1.—As far as raising of demand is concerned, it does not matter whether the demand is raised or not. The recent case law on the subject had dealt with this matter and has held that raising of demand is not so material as if the demand is not raised, to disentitle the workman to raise his dispute. I therefore, find this issue in favour of the workman and against the management.

Issue No. 2.—I have discussed the enquiry proceedings and the evidence on issue No. 2. The workman stated that he was not allowed to attend his duty on account of union activities. He admitted his signatures on every document but he said that he signed because the management had told him that he shall take him on duty. He admitted his signatures on the enquiry proceedings and his statement also. He admitted his signatures on Ex. M-8, M-9, M-11 to M-15. He also admitted his signatures on Ex. M-17 and Ex. M-18. However he denied his signatures on Ex. M-16, M-19 and M-20 but this does not matter. He has admitted his signatures on document which are crucial for deciding the case.

As I have not found any fault in enquiry proceedings and have held it in accordance with the principle of natural justice, the domestic enquiry and the report of the enquiry officer, based on the proceedings and evidence are valid and legal and therefore the termination of services of the workman concerned has been rightly done by the management. I, therefore, find issue No. 2 in favour of the management. I, therefore, give my award as follows :—

That the termination of services of of Shri Amar Singh Sharma, the workman concerned was justified and in order and he is not entitled to any relief ?

NATHU RAM SHARMA,

Dated the 6th May, 1977.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 533, dated 7th May, 1977

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,

Dated the 7th May, 1977.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 4292-4 Lab-77/12677.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s Dalmia Dadri Cement Ltd., Charkhi Dadri.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL
HARYANA, FARIDABAD

Reference No. 103 of 1972

*between*THE WORKMEN AND THE MANAGEMENT OF M/S DALMIA DADRI CEMENT LTD.,
CHARKHI DADRI.*Present:-*

Shri Shankar Lal, for Cement Factory Workers Union.

Shri Bhim Sain Parbakar, for Men's Union.

Shri S. D. Vashist, for the management.

AWARD

By order No. ID/HSR/1-F-72/42432, dated 7th December, 1972, the Governor of Haryana, referred the following dispute between the management of M/s Dalmia Dadri Cement Ltd., Charkhi Dadri and its workmen to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of section (1) of section 10 of the Industrial Disputes Act, 1947.

Whether the workmen who are already getting 'A' grade and having service of at least 10 years should be put in lower technical grade III? If so, with what details and from which date?

On receipt of the reference, notices were issued to the parties. The parties appeared and put in their pleadings. The following issues were framed by my learned predecessor on 18th August, 1974.

- (1) Whether the present reference is vague, and therefore invalid? (on management)
- (2) Whether the reference raised a question of promotion of the workman concerned and this Tribunal cannot go into this question for the reasons given in para 2 of the preliminary objections in the written statement? (on management)
- (3) Whether the workmen who are already getting 'A' grade and having service of at least 10 years should be put in lower technical grade III, If so, with what details and from which date?

Issues Nos. 1 and 2 were treated as preliminary. The application thereafter was made by Dalmia Dadri Cement Factory Men's Union, through Shri Bhim Sain, its President to add that union as a party. Shri Shankar Lal had no objection. My learned predecessor allowed Shri Bhim Sain and his union to implead as a party,—vide their order, dated 16th October, 1974. My learned predecessor again framed issues on the further pleadings of the parties on 11th March, 1975.

- (1) Whether the reference in the present form is bad in law and without jurisdiction as per reasons given in the preliminary objection No 1 of the written statement? (on management).
- (2) Whether the workmen concerned had raised a proper demand on the management before taking up the matter for conciliation? If not, with what effect? (on workman).
- (3) Whether the workmen who are already getting 'A' grade and having service of at least 10 years should be put in lower technical grade III? If so, with what details and from which date?

The case was then fixed for the evidence of the parties on issues Nos. 1 and 2. Thereafter the parties have been praying for adjournment time and again on one or the other reasons and grounds. This case was fixed for the evidence of the parties on 19th April, 1977 but the file of this case was taken up on the request of the parties, as the tour to this place for 19th April, 1977 has been cancelled in view of the facts that the learned representative of the management would not be able to appear tomorrow also and no other case was fixed for tomorrow except for these parties. All the parties are present.

Today the representative of the workmen have made statements that they give up the dispute under reference and withdraw from this reference. I have considered the statements and I give my

award in the light of the statements of the representative of the workmen that there is no dispute now between the parties on the matter under reference. As a result of this "No dispute Award," the workmen who were already getting A grade and having service of 10 years should not be put on a lower technical grade III. This award has been given in the light of the statements of the workmen.

NATHU RAM SHARMA,

Dated the 18th April, 1977.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 419, dated 28th April, 1977.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,

Dated the 28th April, 1977.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 4258-4 Lab-77/12679.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and the management of M/s The Ambala Central Cooperative Consumer Stores Ltd., Ambala Cantt.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT,
HARYANA, ROHTAK

Reference No 55 of 1973

between

SHRIMATI JAGDISH KAUR WORKWOMAN AND THE MANAGEMENT OF M/S THE
AMBALA CENTRAL CO-OPERATIVE CONSUMER STORES LTD., AMBALA CANTT.
AWARD

By order No. ID/AMS/189-D-75/37050, dated 28th August, 1973, the Governor of Haryana, referred the following dispute between the management of M/s The Ambala Central Co-operative Consumer Stores Ltd., Ambala Cantt. and its workwoman Shrimati Jagdish Kaur to this Court, for adjudication, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shrimati Jagdish Kaur was justified and in order? If not, to what relief is she entitled?

The parties put in their appearance in this Court in response to the usual notices of reference sent to them and filed their pleadings.

On an objection raised by the workwoman concerned, that the enquiry held against her into charge of misconduct of her not being able to give sale return up to the standard fixed, while being in service of the management as a sale girl and of her failure to submit periodically progress report despite being directed to do so and disobeyed the orders to cover the patterns residing in the model colony, thus showing in different attitude towards the execution of her duties, the enquiry was held vitiated by me.—*vide* my detailed order dated 22nd September, 1976, and evidence of the management on merits of the case in proof of the aforesaid charges was thereafter recorded.

The case was fixed for recording the rebuttal of the workwoman, for 25th April, 1977, when the parties arrived at a mutual amicable settlement and made their statements accepting the same as correct. The management concerned agreed to reinstate the workwoman Shrimati Jagdish Kaur with continuity of service without payment to her back wages and to pay her a sum of Rs 2,500 as *ex-gratia* and to treat the intervening period from the date of termination of her services to the date of reporting for duty as extraordinary leave without pay. The workwoman concerned accepted the agreement Ex. M-1, incorporating the aforesaid terms as correct.

I, thus answer the reference while returning the award in terms of the settlement copy Ex. M-1, referred to above.

MOHAN LAL JAIN,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

Dated the 25th April, 1977.

No. 849, dated the 29th April, 1977.

Forwarded (four copies) to the Secretary, Government, Haryana Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 4185-41.ab-77/12681.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad/Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s K.B. Electrical Industries, Faridabad.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT,
HARYANA, ROHTAK

Reference No. 182 of 1972

between

SHRI JASWANT CHAND, WORKMAN AND THE MANAGEMENT OF M/S K.B. ELECTRICAL
INDUSTRIES, FARIDABAD

AWARD

By order No. ID FD/72/21556-560, dated 16th June, 1972 the Governor of Haryana, referred the following dispute between the management of M/s. K.B. Electrical Industries, Faridabad and its workman Shri Jaswant Chand to this Court, for adjudication, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

“Whether the termination of services of Shri Jaswant Chand was justified and in order ? If not, to what relief is he entitled ?

The parties put in their appearance in response to the usual notices of reference sent to them and filed their pleadings.

The workman raised the demand on the management, that his services had been illegally terminated with effect from 6th April, 1972 and he was as such entitled to reinstatement with effect from 1st January, 1964 with continuity of service and full back wages at the rate of Rs. 170 per mensem last drawn by him as a supervisor.

The management denied the allegations of the workman and pleaded, —*vide* written statement filed by them that his services were never terminated by them and that he on the other hand abandoned his job voluntarily by way of absenting himself from duty from 24th March, 1972 to 11th April, 1972 without prior sanction of leave. They further stated that the workman was drawing only Rs 110 per mensem as his wages and was an old man of 70 years of age unable to discharge his duties and was irregular in attendance.

The workman controverted the pleas of the management,—*vide* rejoinder filed by him and averred that he was on medical leave with effect from 24th March, 1972 and that he had actually applied for grant of leave on medical ground and attached a medical certificate of Dr. C.D. Malik, Registered Medical Practitioner with his application. He stated that the management admitted before the Conciliation Officer, during Conciliation Proceedings that they had terminated his services and were not prepared to take him on duty.

The following issues were thus framed on pleas of the parties, — *vide* order dated 21st September, 1973 :—

- (1) Whether Shri Jaswant Chand, concerned workman had himself abandoned service by remaining absent from duty without proper authorisation ? If so, with what effect ?
- (2) Whether Shri Jaswant Chand, concerned workman is 70 years of age and unfit to work ?
- (3) Whether the termination of services of Shri Jaswant Chand was justified and in order ? If not, to what relief is he entitled ?

I have heard authorised representatives for the parties with reference to the evidence led by them. I, decide the issues as under :—

Issue No. 1.

The management in order to prove this issue examined Shri Badan Singh their workman as MW-1. Shri Badan Singh deposed that Shri Jaswant Chand, workman concerned felt stomachache about 2 or 3 months after his re-employment and that on instructions received by him from the management, the took him into his house and left him there. He added that the workman concerned Shri Jaswant Chand never returned to the factory thereafter.

The workman appearing as his own witness deposed that he joined service of the management concerned on 11th November, 1971 and that Shri K.B. Gosian sole proprietor of the management and his son turned him out of the factory on 2nd March, 1972, on his making a demand from the former of his wages from 11th November, 1971 to the end of February, 1972. The workman tendered in evidence the copy of the report of the Conciliation Officer Exhibit W-2 and Exhibit W-2/A showing the admission of the management before him that they had terminated his services. He denied the suggestion that he become unconscious on account of stomachache while at work and gave out that he never fell ill. He explained that he received an injury on his forehead as a result of accident caused by a friend of Shri K.B. Gosian and that he sent a medical certificate of Dr. C.D. Malik Exhibit M-1, dated to the management along with the application for grant of leave from 24th March, 1972 to 5th April, 1972 on medical grounds. He thus admittedly remained absent from duty from 24th March, 1972 to 5th April, 1972 without making any application.

I have given the matter my careful consideration. It would thus appear that the factum of the workman having remained absent from duty on account of his illness during the period from 24th March, 1972, to 5th April, 1972 is admitted. There is no evidence on record in respect of the workman having sent any application for sanction of leave from 24th March, 1972 to 4 5th April, 1972 and his bare statement in cross-examination, to this effect is hardly sufficient to prove that fact. Even assuming that the workman sent an application for grant of leave, on medical grounds, there is no evidence in respect of its being sanctioned and considered from any angle, the plea of the management concerned by this issue is found substantiated by the statement of the workman himself who did not even himself depose that the leave applied for by him from 24th March, 1972 to 5th April, 1972 was sanctioned. The admission of the management found recorded in the report of the Conciliation Officer Exhibit W-2/A that they had terminated the services of the workman concerned, shall under the circumstances be construed as their having struck off his name on account of his absence from duty and not as termination of his services by them even otherwise than due to absence. Even otherwise there is no evidence on record in respect of the person making such admission and in absence of such an indication from the report Exhibit W-2/A it cannot be said that some authorised person made that admission on behalf of the management. Considered from any angle this is proved to be a case of abandonment of the job by the workman concerned by way of his absence from duty without prior permission or sanction of leave from 24th March, 1972 to 5th April, 1972 and this is not a case of termination of his services by the management. I, accordingly decide this issue in favour of the management.

Issue No. 2.

In view of my finding on issue No. 1 this issue need not be decided.

Issue No. 3.

In view of my finding on issue No. 1 this is obviously a case of abandonment of his job by the work man and not a case of termination of his services by the management and the former is not entitled to any relief, I, decide this issue accordingly and return the award with these findings.

Dated the 22nd April, 1977.

MOHAN LAL JAIN,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 855, dated the 29th April, 1977.

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 22nd April, 1977.

MOHAN LAL JAIN,

Presiding Officer,
Labour Court Haryana,
Rohtak.